



National Service & Legislative Headquarters
807 Maine Avenue, S.W.
Washington, D.C. 20024-2410
Phone (202) 554-3501
Fax (202) 554-3581
www.dav.org

**STATEMENT OF
LEROY ACOSTA
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
SEPTEMBER 13, 2017**

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. As you know, DAV is a non-profit veterans' service organization comprised of 1.3 million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to present our views on the bills under consideration by the Subcommittee, and we appreciate your invitation.

H.R. 1721

This bill designates Wilmington, North Carolina, as The First *American World War II City* and directs the Secretary of Veterans Affairs to consult with the Secretary of Defense to designate at least one city in the United States each year as an *American World War II City*.

The criteria for a city to be considered an *American World War II City* include the city's contributions to the war effort during World War II related to defense manufacturing, bond drives, armed forces service and military facilities in the particular city. In addition, the efforts by a city to preserve its contributions during World War II, establishment of preservation organizations or museums, restoration of World War II facilities and recognition of veterans who served in World War II, will be considered.

While DAV does not have a resolution specific to this issue, we are not opposed to passage of this legislation.

H.R. 1900, the National Veterans Memorial and Museum Act

This legislation would designate the Veterans Memorial and Museum in Columbus, Ohio, as the National Veterans Memorial and Museum.

As a civic landmark and cultural institution in Columbus, Ohio, the Veterans Memorial and Museum is being constructed to honor, connect, inspire and educate Americans about the service and sacrifice of more than 40 million veterans, more than half of whom are alive today, and 1.1 million deceased service members who have defended our nation's freedoms.

DAV does not have a resolution specific to this issue, and has no formal position on the bill.

H.R. 3122, Veterans Care Financial Protection Act of 2017

This legislation directs the Secretary of Veterans Affairs (VA) to collaborate with agencies of the federal government, states and appropriate experts to develop and implement standards to protect individuals eligible for increased pension due to regular aid and attendance from dishonest, predatory or otherwise unlawful practices.

This bill mandates the VA to submit a report to both the House and Senate Veterans' Affairs Committees concerning the standards developed no later than 180 days after enactment of this legislation. In addition, this legislation directs the Comptroller General of the United States, not later than 540 days after enactment, to complete a study on standards implemented to protect those in need of regular aid and attendance.

While DAV does not have a resolution specific to this issue, we unfortunately continue to hear stories about various schemes to take advantage of elderly and disabled veterans receiving VA benefits. This measure seeks to address this issue and appears beneficial. Therefore, we are not opposed to passage of this legislation.

H.R. 3656

H.R. 3656 would establish a consistent applicability date for provision of memorial headstones and markers for eligible non-veteran individuals.

Under present law, each class of non-veterans eligible to receive a memorial headstone or marker has a different effective date. For example, a surviving spouse who dies on or after November 11, 1998, is eligible for a headstone or marker. However, only dependent children who die on or after December 22, 2006, are eligible. There are situations in which the VA may be able to provide a marker for the parent, but not the child due to the inconsistency in the dates.

This legislation assigns an eligibility date of on or after November 11, 1998, for a VA memorial headstone or marker for a veteran's spouse and dependent children whose remains are not available for burial. These headstones and markers bear the inscription "IN MEMORY OF" as their first line.

While DAV does not have a resolution specific to this issue, we are not opposed to the passage of this legislation.

H.R. 3657

This bill would authorize the VA to provide headstones and markers for the graves of spouses and children for veterans who are buried in tribal cemeteries. Under current law, spouses and dependents are not eligible for a government-furnished headstone or marker unless they are buried in a national cemetery, state veterans' cemetery, or military post/base cemetery.

While DAV does not have a resolution specific to this issue, we are not opposed to the passage of this legislation

Draft Bill – Veterans Fair Debt Notice Act of 2017

This draft legislation would require the Secretary of Veterans Affairs to utilize certified mail and plain language in certain debt collection activities.

Consistent with the intent of DAV Resolution No. 213, which calls for alleviating undue financial hardship in processing overpayments and notifying veterans of debt, we support this bill. Veterans Fair Debt Notice Act of 2017, proposes to secure notification to debtors of debt collection actions with a plain language explanation of the debt.

Under 38 C.F.R. § 1.912A(a), the Department of Veterans Affairs (VA) has the authority to collect debts by offset against any current or future VA benefit payments to the debtor. 38 C.F.R. § 1.912A(b), notes if the debtor submits a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver, within thirty days of notification, VA cannot start collection of the debt by offset of the next benefit payment. Because this legislation requires the Secretary to use certified mail, which is conditional on a signature of receipt, it brings up the significant question of "What is the date of notification?"

Currently, the date of notification is defined as the date of the letter notifying a claimant. However, this legislation is mandating certified mail which requires the debtor to sign for the notification letter. Therefore, the date of signed receipt of certified mail by the debtor should be considered the date of notification. This date of notification will then start the 30-day time period for the debtor to respond with a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver.

Section (a)(2) of this legislation proposes certified mail be used to send "A request for a waiver from a debtor to the Secretary under subsection (c)(2) of such section." We believe section (a)(2) requires clarification. When read within the context of subsection (c)(2), it appears to require the debtor to use certified mail to send a

waiver request to the Secretary. As this would place an undue burden and potential hardship upon the debtor (veteran), we would oppose any such requirement.

We applaud the provision in the bill requiring a plain language explanation of why the debtor owes money. The overpayment and debt process can be confusing, complex and overwhelming to many veterans who are left guessing as to why the debt was created. We agree that a simple and plain explanation should be required in all debt notifications.

Recommendations

To ensure clarification of this legislation, while preserving the intent and best interests of veterans and their families, we recommend the following:

1. Section (a)(2) needs clarification to ensure the true meaning and intent. We suggest language be used to clarify the Secretary is sending the request for waiver to the debtor by certified mail.

As noted above, section (a)(2) can be interpreted to read that the *debtor* is required to use certified mail to send a waiver request to the Secretary. Not only would this place an undue burden and hardship on the debtor, it would require that veterans service organizations (VSO) who hold power of attorney for the veteran and receive the waiver request from the debtor, to send the waiver request via certified mail to the VA. In many cases, the representative is a VSO and most VSOs are co-located with the VA, which would make this requirement impractical.

2. Amend the proposed legislation to allow for an additional section for clarification of the date of notification.

We suggest adding section (c) to indicate that the date of notification of the debt is the date of signed receipt of certified mail by the debtor. This date of notification will then start the 30-day time period for the debtor to respond with a written dispute of the debt, a written request for waiver, or a written request for a hearing on the waiver. This will ensure the debtor has 30 days from the actual date of notification and will alleviate any potential loss of time due to delayed delivery of the notice of debt.

3. Additionally, we draw your attention to DAV Resolution No. 213, which calls for alleviating undue financial hardship on the veteran debtor in cases when processing of the veteran's change in status is delayed by VA for 90 days or more after timely notification by the veteran of such change. Specifically, DAV's resolution supports the automatic waiver of such debt if the VA takes more than 90 days to process the Notice of Waiver of Compensation for Drill Pay or process any changes to dependency after notification by the veteran. As this resolution reflects the same overarching intent as the draft measure, we respectfully

request the Subcommittee consider amending this legislation to include this provision and our other two recommendations.

Mr. Chairman, this concludes DAV's testimony. Thank you for the opportunity to testify at today's hearing and offer our position on the bills being considered before the Subcommittee.